

for the United States District Court
for the District of Delaware
James Hall Plaintiff
v. David Holman et. al., Defendants
(C.A. No. 04-1328-GMS
Jury Trial of twelve demanded.)

Affidavit of James Hall

Come now the Plaintiff James Hall and
states under penalty of perjury that the statements
and facts made herein are true and correct
to the best of affiant's knowledge.

CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2005 DEC 20 PM 3:53
FILED

III. Parties

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff JAMES HALL

Address DC 1181 Padlock Road, Smyrna DE 14977

(In item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions and place of employment of any additional defendants.)

B. Defendant David Holman is employed as Security Superintendent at Delaware Correctional Center, New Smyrna De

C. Additional Defendants Lawrence McGuigan, Deputy Warden
Christopher A. Sagers, Acting Deputy Warden I-
Delaware Department of Corrections

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheet if necessary.)

1. Plaintiff arrived at the Delaware Correctional Center on Jan, 20, 2004
 Plaintiff was transferred from C-Bay to MHD 23 1-22-04 and was
 placed in a cell with a very dangerous inmate from Feb 27, 2004
 To June 6, 2004 Plaintiff has submitted numerous Request to Mr. Holman
 Deputy warden McGuigan April 2, 2004 Capt Sagers May 17, 04 with regards
 To physical Confrontation, Threats threatening said Request went unanswered
 To no avail Plaintiff Requested to said Defendants (See attached sheet)

(Attached sheet)

Statement of Claim. Continued
From page 3.

To be relocated to another cell. Because confrontations were becoming more and more vulgar. David Holman is Security Superintendent in charge of assignments, and more vulgar. David Holman is Security Superintendent in charge of assignments, and more vulgar. Plaintiff submitted, Placement, Relocation of inmate housing Arrangements on 2-24-04. Plaintiff submitted as per my request to be relocated to another cell because my cell mate is very dangerous research. Jimmy Bufford was threatening bodily harm to me and the Altercation occurred on a daily basis I suffered from a broken right hand which was diagnosed on 1-22-04 confirmed on 2-18-04 by First corrective medical fact. This hand cap was made clear to major Holman on several occasions that plaintiff was in no position to protect myself from attack. Plaintiff asserts that defendant Holman with requisite state of mind was responsible for his cell assignment. Defendant Holman knew and disregarded an excessive risk to plaintiff health or safety. Defendant Holman knew that plaintiff faced a substantial risk of serious harm and disregarded that risk by failing to take reasonable measures to abate it. Plaintiff states through repeated request to be relocated and the request were unanswered to alleviate the problem, plaintiff was attacked and suffered the loss of a tooth. On 3-9-04 plaintiff received a letter from major Holman stating my letter dated 2-22-04 was forwarded to Deputy Warden Lawrence McGuigan for review, while the altercations with plaintiff cell mate escalated and became more violent. Plaintiff submitted a request in the form of a letter to Deputy Warden McGuigan about his view on the altercations which were now physical, intimidation (e.g. Loudly, Forcefully, which would allow salva to spatter into plaintiff face) e.g. pointing of a finger into the face (free).

Statement of Claim Continued From page 3. Count II

Plaintiff states in the letter to Deputy Warden McGuigan in said letter plaintiff expressed concern for my fear of being attacked from cell mate and asking to be moved and respectfully requesting consultation in regards to the matter forwarded to him from David Holman which never took place. The defendant Lawrence McGuigan with requisite state of mind knew and disregarded an excessive risk to plaintiff health or safety. Defendant knew that plaintiff faced a substantial risk of serious harm and disregarded that risk by failing to take reasonable measures to abate it as a result from not being moved plaintiff suffered the loss of a tooth from being attacked by inmate (see attached letter Exhibit B)

(Attached sheet)

Statement of claim continued

From page 3.

1. (David Holman, said plaintiff a letter marked Exhibit A

which clearly leave plaintiff with the only remedy, To remain in the two man

cell and take matters into plaintiff's own hands by any means necessary, plaintiff incl.

This hostile environment awaiting deputy warden McGuigan's review. Plaintiff submitted the

letter on 3-30-04 to deputy warden McGuigan in regards to my cellmate Anthony Coffey

deputy warden McGuigan received this letter 4-2-04. On May 17, 2004 plaintiff received

a letter from Clyde D. Sayers Acting Deputy Warden I, in Ref to my letter addressed

to Deputy Warden McGuigan, stating my letter was forwarded to Lieutenant Boos, For his

Investigation Department Clyde D. Sayers. knew and Disregard an excessive risk to plaintiff's health

or safety defendant, Sayers knew that plaintiff faced a substantial risk of serious harm and

disregarded that risk by failing to take reasonable measures to abate it. Plaintiff make

Request to be relocated and the request were unanswered to alleviate the problem. Plaintiff

was attacked and suffered the loss of a tooth. On 6-6-04 plaintiff was violently attacked

by inmate complained of. Anthony Coffield who is muslim after enduring beaten by inmate

Coffield, Plaintiff was violently attacked by other muslims of unit 23 plaintiff was knocked

to the floor kicked and beaten plaintiff received emergency treatment. Defendants were

Subjectively separation was sufficiently serious and the officials has acted with

Deliberate indifference to inmate health or safety in violation of the eighth amendment

to the United States Constitution. The state defendant have an affirmative obligation

to provide protection from assault by other inmates but failed to do so.

Choice of action count 1

4. (David Holman, Lawrence McGuigan, Clyde D. Sayers. Defendants were deliberately

Respectfully with regard to II A, B, C of this section, 3/1983 Plaintiff has
he has exhausted his administrative remedies under the PLRA (to the extent that
Plaintiff may dispute the ~~fact~~) fact. The grievance filed must specifically state the issue
pertaining to the denial of medical care being complained of and list the names
or name of the staff that caused the violation. See *Curry v. Scott*, 349 F.3d 4
504 (6th Cir. 2001). If the identity of the prison staff is not known, a request
for the name of the prison staff is not known even in response to the grievance
is sufficient for exhaustion purposes. See *Irvin v. Zamora*, 161 F. Supp. 2d 1125, 1134
(S.D. Cal. 2001) (plaintiff's grievances did present the relevant factual circumstances
giving rise to a potential claim and did request the identities of the individuals
directly responsible for spraying the pesticide. This was sufficient to put prison officials
on notice of possible problems with these individuals") Id. B, of this section
(See Exhibits C, D, E). The plaintiff fairly presented his grievance to ("10c") MERSER, C,
D, E,
and another attempt to investigator, "Sagers, Clyde" (See Exhibits) C, D, E,
who have not responded

5.) Defendants knew that plaintiff faced a substantial risk of serious harm and disregarded that risk by failing to take reasonable measures to abate it

6.) Defendants' Deliberate indifference to substantial risk of serious harm to an inmate amounts to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution

7.) Plaintiff Submitted Request to be Relocated to another cell to alleviate the problem. Defendants Disregarded the request and plaintiff suffered the loss of a tooth as a result of not being Relocated

8.) Defendants intentionally ignored and failed to respond to substantial risk of serious harm to plaintiff. Plaintiff has suffered unnecessarily due to Defendants' Deliberate indifference

9.) Defendants were required but failed to take reasonable measures to guarantee the safety of inmates.

10.) Defendants' conduct or lack of conduct demonstrates a knowing indifference to a substantial risk of serious harm to an inmate

11.) Defendants were aware of this objectively intolerable risk of harm and subjectively disregarded it.

- 12.) The Subjectively deprivation was sufficiently serious and the officials has acted with deliberate indifference to inmate health or safety in violation of the Eighth Amendment to the United States Constitution.
- 13.) The State Defendants bore an affirmative obligation to provide protection from assault by other inmates but failed to do so.
- 14.) Plaintiff submitted numerous request over a period of 4-5 months to be Relocated to another cell Defendants failure to respond reasonably has resulted in the loss of a tooth.
- 15.) Random Assignment of cellmates is cruel and unusual punishment in violation of the United States Constitution constitutional amendment 8.
- 16.) prison officials were deliberate indifferent to risk of violence arising from random cell assignment.
- 17.) prison officials fail to use available classification information to determine cellmate compatibility pursuant to failure to protect in violation of Eighth Amendment and violates Plaintiff clearly established Rights.
- 18.) Plaintiff seeks injunctive relief requiring prison officials to use available inmate classification information and procedure to predict compatibility of incoming cellmates for double celling because current random assignment of cellmates substantially increase risk of violence in violation of the Eighth Amendment.

- 19) The Department of Corrections prison officials are not forced to house its prisoners two men to a cell. Said housing plaintiff in this manner in a double cell approximately 74' Square Feet is unconstitutional and amounts to cruel and unusual punishment in violation of the Eighth Amendment.
- 20) These cells approximately 74' Square Feet or less in size, in the Maximum Housing Unit (MHU) were intended to house only one inmate.
- 21) The prison officials were deliberately indifferent to plaintiff in their failure to protect in that they failed to utilize any screening as a method of assessment of person risk factors such as potential for suicide, propensity for violence, victim potential etc. Defendants failed to predict compatibility of inmates.
- 22) The only exception occurs if inmate identifies another inmate with whom he has a serious problem and then the potential victim is either forced to sign himself on protective custody, a more restrictive or punitive housing assignment or forced to remain within the double celling with the hostile inmate and to take matters into his own hands by any means necessary.
- 23) The guards in the control center can see into the cell's cell doors are solid, with a small barred window and two small vents. There is no inter-cell monitoring intercom system. The intercoms in the day room, the speaker and receiver for this system do not work and are outside the cells requiring inmates to shout through the cells in order to attempt to get the attention of the guards on duty which is fruitless because guards are located completely off the tiers in the hallway or an isolated enclosed concrete bubble.

24.) Plaintiff States: The CMHU is an increasingly violent place with numerous assaults, Aggravated Assualts, Fights and Threatened bodily harm. Plaintiff has recorded herein how he was punched by his cellmate while yelling for help which never came.

25.) Moreover, many acts of violence at the CMHU go unreported and undocumented for these reasons. 1) if an inmate reports violence by another inmate. Inmates do not want to be called a Snitch, thus they often do not report violence.
2) if an inmate reports violence in which he is involved, both he and the other inmate will receive misconduct reports and will be disciplined, 3) if an inmate reports a violent incident, but there is neither a witness nor physical evidence of the reported violence, neither inmate is disciplined.

26.) The Defendants knew or should have known that the Plaintiff faced a pervasive risk of harm. Actual knowledge of this fact on the part of the defendants is supported by Plaintiff's several letters to prison officials informing them of same and asking for help.

27.) Defendants were also aware that Plaintiff had a broken right hand at all times relevant to these claims. This is not an overcrowding case in the sense that the Plaintiff is asserting that the DCC offers houses more inmates than it can manage or for when it can provide services for Plaintiff. Does not injury or assert any claim about that fact. The issue in this case is a deliberate indifference by prison officials failure to protect him from violence or threatened violence from cellmate.

28.) The Defendant subjected Plaintiff to violence because it is not part of the penalty that criminal offenders should pay their offense. Plaintiff has clearly demonstrated that he is incarcerated under conditions posing a substantial risk of serious harm as noted. Plaintiff suffered from a broken right hand and was literally defenseless and Defendants were clearly aware of this fact and yet despite their knowledge they disregarded the excessive risk to Plaintiff health and safety. Thus Plaintiff has suffered the unnecessary and wanton infliction of pain in violation of the Eighth Amendment.

29.) Defendants extreme conduct has caused severe emotional distress to Plaintiff in violation of Eighth Amendment to the United States Constitution

Request for Relief

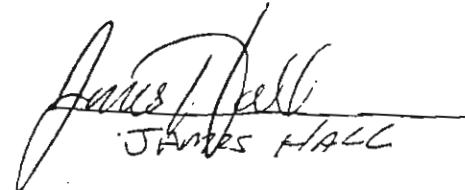
Compensatory Damages in the amount of
90,000,00

Punitive Damages in the amount of
120,000,00

Special Damages, i.e., Extreme Emotional Distress
in the amount of 100,000,00

Whatever further Relief the court deems
just and proper

12-15-05


James Hall

Certificate of Service

I, James Hall, hereby certify that I have served a true and correct cop(ies) of the attached: (2) Affidavit of James Hall upon the following parties/person (s):

TO: Mrs. L. S. Barchi
820 N. French Street, 6th
Floor Washington, DC 20001

TO: _____

TO: _____

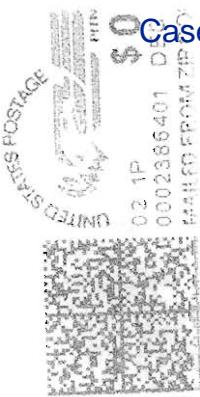
TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 15 day of December, 2005

James Hall

James Hall pro se W.C.G.
Delaware Correctional Center
1181 Moldock Dr. Smyrna DE
19971



*Clerk of the Court
United States District Court
894 N. King Street, locker box 18
Wilmington, Del 19801*

